

BOARD OF SELECTMEN REGULAR MEETING
Tuesday August 1, 2017 7:00pm

A meeting of the Board of Selectmen was held on Tuesday, August 1, 2017 in the selectmen's conference room.

Members present: First Selectman Michael Criss, Selectman Evan Brunetti, Selectwoman Nancy Schnyer

Attendees: Attorney Michael Rybak – Town Attorney, Peter Thierry – Board of Finance, Alice Freiler, Barbara Buss, Gail Rosin – Library, Josie Albertson Grove – Republican American

Call to Order

Mr. Criss called the meeting to order at 7:00 pm.

Minutes of the Previous Meeting

Mr. Brunetti made a motion to approve the minutes. Ms. Schnyer Seconded. All were in favor. Motion carries.

Appointments and Resignations

No Appointments or Resignations at this time.

Public Participation

Alice Freiler, Barbara Buss, Gail Rosin attended to discuss the budget impact on the Library.

New Business

Request for Tax Refunds – Ms. Schnyer made a motion to approve the tax refunds. Mr. Brunetti Seconded. All were in Favor. Motion carries.

Foothills Letter – The Town has been dealing with the Foothills Trader and the Hartford Courant complaints almost on a daily basis. We have a file with a number of resident complaints accompanied with pictures. The City of Torrington, Town of New Hartford, Town of Burlington, Town of Litchfield and Town of Barkhamsted had meetings with the Foothills Trader and Hartford Courant. The Elected Officials discussed how the distribution of these publications is causing issues by getting into the storm drains, brooks and streams. Publications are thrown on both ends of circular driveways and they are piling up in front of several houses. Many have called to opt out. We have called on their behalf to opt out because 3 or 4 weeks after calling to get off the distribution list, they are still getting publications. The Hartford Courant has been the most responsive in helping to stop deliveries. They have also stopped sending their publications to entire streets and actually picked up their debris after they were made aware of it. The Foothills Trader hasn't been as responsive. Mr. Criss read documents from a neighboring Town who filed a complaint about these distributions being considered litter. Publications do not go into the mailboxes because there is a 3rd party that is actually delivering the papers. In the last week we have had 12 complaints. People are not getting removed from the delivery list as late as 6 weeks out from initial

request. Elected Officials suggested sending post cards asking if residents would like the publication; also suggested putting out stands to leave stacks of them available to the public. Mr. Criss has reached out to the publishers to try to get this issue resolved. Mr. Criss drafted an informative letter to residents to let them know how they can try to address the issue as well. Attorney Rybak was asked to speak. His recommendations included the need to have justification for having an ordinance. Compiling a record is the first step including photos of the locations in which these papers have been thrown. Have the Highway Department keep track of the time and effort it takes to clean them up. If going to adopt something that affects speech, the Town has to have the strictest standard narrowly drawn to only go after the harm that is being created. Speech is very difficult to regulate. Right it is very complex to analyze free speech rights as there are various levels of speech. Not all the Justices agree on this. They distinguish at the lowest level of speech which is commercial, which is advertised. This type of publication tries to get above that because at an advertising level regulation is possible under police power and not subject to the strict scrutiny standard. However, it's always subject to the reasonable exercise of the police power that would be with any ordinance that is adopted to regulate littering or an offense that is within the public right of the authority to litigate. Once start putting in news, it now enters into the 'News' category which allows for greater protection at a level where people have a constitutional right to receive the news. There is no constitutional right to force it on them. If a resident expresses that they don't want it, then that's important because there is a 1st amendment right to publish it, there is not a 1st amendment right to force it on anyone. There is a Winchester Ordinance as well and the Town of Burlington is in the process of drafting and adopting an ordinance to prevent this form of delivery to stop. Neighborhoods have been able to petition to have it stop. If there is evidence that these papers have accumulated and caused a break-in of an unoccupied home, or a home where the occupants were on vacation and there was evidence of that, once that matter is handled through the police channels then that would be very helpful. The nuisance is at the tax payers' expense. But the fact that this can cause burglary or worse is the real power. Tried classifying it as littering in Litchfield but can't prove criminal intent. If you draw an ordinance and it passes the town meeting, do you want to be the test case town? Atty. Rybak would like to get more information from CCM on how they may have handled this issue in other towns in the past. If enough towns adopt the ordinance then it's much harder to bring a test case against just one town. It's not justifiable to spend the legal budget of Harwinton. They will get a legal institute, make a test case out of it and if you lose you have violated their civil rights which mean that attorney fees are recoverable. Mr. Criss asked if this is something that can be added to Peddlers ordinances or other ordinances that are already in place. The police enforce the ordinances. Resident State Trooper then has to run it by their legal council. Ms. Schnyer made a motion to get more information from CCM to further investigate Foothill Trader options to stop distribution. Mr. Brunetti Seconded. All were in Favor. Motion carries.

State Land Agreement – Catlin Road Bridge: There was subjected land under file 65-107022A that the DOT during this project in an agreement, executed deeds and copies of closing reports for some right of ways that they had accumulated in order to do the dam. The DOT has forwarded a quick claim deed from the State of CT to turn the land back over to the Town of Harwinton as coveted right of way land. Mr. Criss had both Atty. Mike Rybak and Highway Supervisor John Fredsall review the paperwork, State deeds and survey maps. There was no exchange of money. It was a quick claim deed from the State of CT to the Town of Harwinton for highway purposes. Mr. Brunette asked Atty. Rybak if this is standard procedure. Atty. Rybak said that it is. This is a

Town highway, a Town bridge that was done under the State Bridge Program. Lake Harwinton did contribute. The Town is taking the bridge which has been used for about 10 years. Also with it, all the drainage easements, downstream spill easement for the structures. The dam itself and the spillway itself that it is anchored to belong to the Lake Harwinton Association. Mr. Brunetti made a motion for Mr. Criss to sign and accept the quick claim deed. Ms. Schnyer Seconded. All were in Favor. Motion carries. Mr. Brunetti made a motion to add it to the Agenda Community Hall ceiling, the Harwinton House and Executive Session. Ms. Schnyer Seconded. All were in favor. Motion carries.

First Selectman's Report – Nothing at this time.

Budget – Mr. Criss has been going down to the Capital to get more information. Unfortunately under executive order right now nothing is being funded. Small hospital pool, ECS is not being funded. All these things are frozen which are normally September payments. Big numbers to be aware of are ECS, which is currently a little over 2 million dollars and the Teachers' Pension. They are asking if the communities will take on some of the Teacher Pension responsibility. Mr. Criss explained to them just because the Town has a positive fund balance does not mean that it is liquid for us to spend. We have Town projects that have already been approved. The Mill rate was set by the BOF to hold it. The decision was made to send out the first installment of property taxes. Decided to hold motor vehicle and personal property taxes and second installment of real estate taxes as long as possible. There will not be a State budget until the end of October, maybe even into November. There is a hard freeze in place that is being reviewed. Anything that is not contractually required to be paid right now is not being paid. Any bill that there is no penalty to not pay we will be holding off on those bills. Discussion a while back with Atty. Rybak about what will happen if the Mill rate is set that is not enough to run the Town? There are three statutes that this affects General statute 12-123. The bills can be sent out now and then we later send a supplemental bill. The Budget that was approved was for \$18,617,694 and we only spent \$18,379,650. Mr. Criss reached out to Region 10 and the Town of Burlington to ask for a meeting to discuss a plan and how the Region can help save the Town. The meeting is scheduled to take place on August 7th 2017. Region 10 is responsible for 80% of the Budget. He asked the Region to renegotiate their payment schedule. They did readjust the payment schedule but did not readjust the bottom line yet. We did not have to pay the second payment that was due on July 24th. The other two payments were cut about a quarter. They are anticipating that this will give us enough time. Very last day to get the bills out would be for September 1st 2017. We continue to send out the balance of our bills at the current Mill rate that was set by the BOF. Once the State gets its act together we can then decide if we have to set a supplemental Mill rate or if we are going to have to use some money from surplus. If we use money from the General Fund to offset, it will have to be included when calculate the Mill rate. Discussion ensued with the Library board concerning the hiring freeze.

Community Hall Ceiling Quote

Harwinton House – Ms. Schnyer asked what happens with money that the tax payers and organizations have donated for the Harwinton House construction. How does that money get returned back to them? The money is in a trust account that can only be spent on the reconstruction of the Harwinton House. The final bills that have been submitted for reimbursement have not been paid. Vincent Lee from DECD has contacted Mr. Criss.

Executive Session – Motion was made to come out of Executive Session. Motion made by Ms. Schnyer to get a letter from DEP approving the Sale of the Wilcox property in swap for the Thierry property and then to pursue to appraise and send to the Board of Finance. Mr. Brunetti Seconded. All were in favor. Motion carried.

Correspondence – Harwinton Library Friends confirming that \$10,000 was for all or nothing. So they are not willing to contribute to renovation going to continue to use the money to renovate or repair. Since referendum did not pass they will not donate money for any renovations.

Adjournment – Ms. Schnyer made a motion to adjourn at 9:00pm. Mr. Brunetti seconded. All were in favor. Motion carries.

Minutes submitted by _____
Jen Minery

RECEIVED FOR RECORD AT HARWINTON CT
ON 08/14/17 AT 12:18 PM
ATTEST NANCY E. ELDRIDGE TOWN CLERK